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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,714	03/03/2004	Jason E. Zirk	P57011	4311
7590		11/18/2004	EXAMINER	
Robert E. Bushnell		BENNETT, GEORGE B		
Suite 300		ART UNIT		
1522 K Street, N.W.		2859		
Washington, DC 20005		PAPER NUMBER		

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,714

Applicant(s)

ZIRK ET AL.

Examiner

G. Bradley Bennett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: claim 10, line 1 sets forth at least one compartment. However, two compartments are claimed subsequently in this claim. Therefore, claim 10, line 1 should set forth at least two compartments. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Vasile.

4. Webb discloses the invention substantially as claimed. Webb sets forth a plurality of compartments in a single housing; a grip (handle); levels for horizontal, angular and vertical information; a laser generator; and a pivotal straightedge. However, Webb does not disclose a pencil holder, indicia on the straightedge or a tape measure as claimed. Vasile teaches how a pencil holder, indicia on a straightedge and a tape measure may be used in a combination tool for the purpose of providing the tool with a plurality of functions. Therefore, it would have been obvious at the time the

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invention was made for one of ordinary skill in the art to add the features taught by Vasile to the device of Webb for the purpose of providing the Webb device with a greater number of functions.

5. Claims 4, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb and Vasile as applied to claim 1 above, and further in view of Hurt.

6. Webb and Vasile disclose the invention substantially as claimed. However, neither Webb nor Vasile disclose the specific pivot member as claimed. Hurt discloses a pivoting member with a tightening device, detent mechanism and circular edge for the purpose of adjusting a pivoting member to a measuring position and locking the member in place. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the pivot as taught by Hurt in conjunction with the combination of Webb and Vasile for the purpose of providing the combination with an easily positional straightedge.

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb and Vasile as applied to claims 3 and 1 above, respectively, and further in view of Dawson.

8. Webb and Vasile disclose the invention substantially as claimed. However, neither Webb nor Vasile disclose the pencil sharpener as claimed. Dawson discloses a pencil sharpener on a multi-use tool for the purpose of allowing a person to sharpen a pencil with the multi-use tool. Furthermore, a pencil sharpener could be placed at various places along a multi-use tool, as long as it does not interfere with another element. This would include an outlet for the light beam, since pencil sharpeners will

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allow light to pass along their axis. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the sharpener as taught by Dawson in conjunction with the combination of Webb and Vasile for the purpose of providing the combination with a means to sharpen a pencil.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Webb and Vasile as applied to claim 1 above, and further in view of Larsen.

10. Webb and Vasile disclose the invention substantially as claimed. However, neither Webb nor Vasile disclose indicia on the housing as claimed. Larson discloses indicia on a multi-use housing for the purpose of allowing a person to measure short distances with the housing. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the indicia as taught by Larsen in conjunction with the combination of Webb and Vasile for the purpose of providing the combination with additional means to measure short distances.

11. Claims 10 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasile in view of Dawson.

12. Vasile discloses the invention substantially as claimed. Vasile sets forth a plurality of compartments in a single housing; a tape measure; and a pencil. The components of Vasile are all inherently removable. Furthermore, the upper side of Vasile will inherently have a lower static coefficient of friction since it is made of the same material as the lower surface and the upper side has a smaller surface area. However, Vasile does not disclose a pencil sharpener as claimed. Dawson discloses a pencil sharpener on a multi-use tool for the purpose of allowing a person to sharpen a

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pencil with the multi-use tool. Furthermore, a pencil sharpener could be placed various places along a multi-use tool as long as it does not interfere with another element. This would include an outlet for the light beam, since pencil sharpeners will allow light to pass along their axis. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to use the sharpener as taught by Dawson in conjunction with the device of Vasile for the purpose of providing the multi-use tool of Vasile with a means to sharpen a pencil.

13. Claims 11-15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasile and Dawson as applied to claims 10 and 18 above, and further in view of Webb.

14. Vasile and Dawson disclose the invention substantially as claimed. However, neither Vasile nor Dawson disclose a handle, specific levels, laser generator or pivotal straightedge as claimed. Webb discloses a handle, multiple levels, a laser generator and a pivotal straightedge for the purpose of providing a multi-use tool with plurality functions. Therefore, it would have been obvious at the time the invention was made for one of ordinary skill in the art to add the features taught by Webb to the combination for the purpose of providing the combination with a greater number of functions.

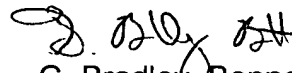
15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Bradley Bennett whose telephone number is 571.272.2237. The examiner can normally be reached on M-TH 8:30-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on 571.272.2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


G. Bradley Bennett
Primary Examiner
Art Unit 2859

gbb
15 NOV 2004